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{ REPORT
No. 613

PROVIDING FOR TRANSFER OF TITLE TO IRRIGATION DISTRIBUTION SYSTEMS CONSTRUCTED UNDER THE FEDERAL RECLAMATION LAWS UPON COMPLETION OF REPAYMENT OF THE COSTS THEREOF

AUGUST 4, 1959.—Ordered to be printed

Mr. BIBLE, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 1136]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 1136) to provide for transfer of title to irrigation distribution systems constructed under the Federal reclamation laws upon completion of repayment of the costs thereof, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

AMENDMENTS

The amendments are as follows:

Page 1, line 7, strike the word "shall" and insert in lieu thereof the word "may".

Page 2, beginning line 3, strike all of line 3 and through the word "same" on line 4.

Page 2, line 25, after the word "water" insert the following: "to an entire project or project unit".

BACKGROUND OF LEGISLATION

S. 1136 has practically the same objectives as S. 2217 reported by the committee on June 28, 1956, and passed by the Senate on July 2, 1956.

EXPLANATION OF THE BILL

S. 1136 proposes to authorize the Secretary of the Interior to transfer title to distribution systems of Federal reclamation projects under certain circumstances to local water users' organizations upon two conditions: (a) that an organization representing the water users concerned shall have requested the transfer; and (b) that the Secretary

shall find that the water users or the organization have completed repayment of all construction and other charges, with the exception of operation and maintenance charges not yet due, which are obligations with respect to the distribution system concerned. Under existing reclamation law, no provision is made for the transfer of title to distribution works upon completion of repayment from the United States to any organization.

Where two or more water-user organizations are concerned with a distribution system the transfer may be effected by the Secretary on the joint application of the organizations affected.

The bill avoids any reference to the transfer of dams or other supply works as distinguished from irrigation distribution systems. The reason for this omission is that the question of transfer of dams or headworks involves considerations of national policy, as well as interstate considerations and should be taken up in connection with matters of broad national policy affecting water resources and their use.

Attention is called to the discretion left with the Secretary of the Interior as to determinations of whether all construction costs and other charges for which an organization is obligated shall be paid prior to transfer of title to the distribution systems. Before and since the enactment of the Reclamation Project Act of 1939, there has been no apportionment, by contract or otherwise, of water-user repayment obligations as between distribution and supply works, the latter of which generally includes dams and related headworks. Under the bill, the Department of the Interior would be required to make an apportionment of this character.

The committee concurs with the view of the Department of the Interior that in making the apportionment the water-users' return should be applied ratably or proportionately to the supply of distribution works unless impelling reasons for the adoption of some other course should appear.

REPORTS FROM EXECUTIVE AGENCIES

The following reports from executive agencies were considered by the committee in reporting on S. 1136:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 29, 1959.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR MURRAY: A report has been requested from this Department on S. 1136, a bill to provide for transfer of title to irrigation distribution systems constructed under the Federal reclamation laws upon completion of repayment of the costs thereof.

We recommend that the bill be enacted, provided it is amended in accordance with the views expressed in this report.

If S. 1136 becomes law, this Department will be authorized, in certain circumstances, to transfer title to distribution systems constructed under the Federal reclamation laws to local water users' organizations. The principal conditions precedent to any such transfer would be that (1) an organization representing the water

users shall have requested it, and (2) the Secretary of the Interior shall have found that the water users or the organization have completed payment of all construction and other charges (except operation and maintenance charges not yet due) which they or it are obligated to repay with respect to the distribution system.

Existing general reclamation law makes no provision for the transfer of title to distribution works upon completion of repayment. Thus enactment of S. 1136 will fill an important gap in the law and will do so without necessitating discussion of the important policy questions which would be raised by a broader bill covering all project works. S. 1136 is primarily a long-range measure. It will become more and more useful as the years go by and as repayment of project costs is completed. Although we do not anticipate that all water users' organizations will take advantage of its terms—there being, in some circumstances, perceptible advantages to leaving title in the United States—it is likely that many of them will do so in years to come.

The bill necessarily leaves it to the Secretary of the Interior to determine whether all construction and other charges required to be paid prior to a transfer of title have in fact been paid. On nearly all of our projects constructed prior to the Reclamation Project Act of 1939 and on many that have been constructed since then, there has been no apportionment, by contract or otherwise, of water users' payments between distribution and supply works. The administration of the bill, if it becomes law, will require such an apportionment. It is our intention, unless the bill is amended to provide otherwise, to make such an apportionment on the basis of applying water users' returns ratably or proportionately to the costs of supply and distribution works.

The use of the word "shall" in line 7, page 1, would appear to require the Secretary to transfer title to distribution works upon the two conditions described above being met. It is our opinion that the language in lines 23 and 24 on page 2, reading "to the extent to which the Secretary finds the same to be appropriate in any particular case" with reference to the transfer of lands and interests in lands, among other things, as part of distribution systems, will permit the Secretary to exercise a reasonable discretion to reserve such rights therein at the time of transfer as to him may appear necessary to allow for future irrigation development. This may have significance in those cases, where, for example, it were to be found that the enlargement of an existing canal which is a part of a distribution system would be the most feasible way to supply needed conveyance capacity to bring additional lands under irrigation. If our understanding that the language quoted would permit the reservation of a sufficient interest in the distribution system's facilities to meet this type of circumstance is incorrect, then we recommend that the bill be amended to change the word "shall" in line 7, page 1, to "may".

The provisions of the bill appear to permit a request to be made, which would have to be granted under certain circumstances, for the transfer of title to a portion of an entire project or unit of a project. We believe it is important that, with respect to the transfer of title thereto, fragmentation of irrigation units should not be encouraged or required by this proposed legislation. In order to assure that this shall not occur, we recommend that the bill be amended by inserting

the words "to an entire project or project unit" between the words "water" and "but" in line 25, page 2.

The first sentence of section 1 would require, in appropriate cases, that title to the distribution works be transferred either to "an organization representing the water users on any project or division of a project" (lines 3 and 4 on p. 1) "or to any other entity designated by it and capable of receiving the same" (lines 3 and 4 on p. 2). We believe it to be appropriate, if title to such works is to be transferred from the United States, that it be transferred to the water users' organization since, in all likelihood, such organization would already have a contractual relationship with the United States with respect to repayment of project construction costs and with respect to operation and maintenance. And any obligation of the United States to continue to deliver water to the project lands being served would, in all probability, run to such organization as a part of that contract relationship. We are unaware of the reason for the language, quoted above, to be found in lines 3 and 4, page 2, which would permit the water users' organization to designate "any other entity" to receive title to the distribution works, and we question the desirability of placing title in any body other than the water users' organization with which the United States has already established a contractual relationship. Accordingly, we suggest that the bill be amended by deleting that language appearing in lines 3 and 4 on page 2 which is quoted above.

The Bureau of the Budget has advised that there would be no objection to the submission of this report to your committee.

Sincerely yours,

FRED A. SEATON,
Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., March 5, 1959.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your letter of February 20, 1959, requesting the views of the Bureau of the Budget on S. 1136, a bill to provide for transfer of title to irrigation distribution systems constructed under the Federal reclamation laws upon completion of repayment of the costs thereof.

The purpose of the bill is clearly stated in its title.

The Bureau of the Budget would have no objection to enactment of S. 1136.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

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